

Remarks:

Applicants have read and considered the Office Action dated December 13, 2007 and the references cited therein. Claim 1-9, 13-17, 21-25 and 27 have been amended. Claims 1-28 are currently pending. Reconsideration and reexamination are hereby requested.

In the Action, claims 1-7, 13-15, 17, 22-24 and 27 were objected to because of informalities. Applicants have reviewed the claims and have made the changes suggested in the Office Action. Moreover, other corrections have also been made to correct similar informalities issues.

Claims 1-3, 7-10, 13, 16-19, 21 and 23-28 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 1, 3, 7-9, 21-24 and 25 have been amended to overcome the indefiniteness rejections. Applicants assert that the claims as currently pending are not indefinite and that the rejections have been overcome. Applicants request that the indefiniteness rejections be withdrawn.

Claims 1, 7, 10, 13, 16-19, 21 and 23-28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lombardi in view of Westhead. The Office Action contends that Lombardi teaches a motor function test system substantially as recited in claim 1 but fails to teach or suggest armrests, each endowed with at least one pressure sensor. The Office Action states that Westhead teaches an apparatus for monitoring balance performance during the transition between sitting and standing in which the handles 20 are provided for each hand of the patient, and the handles each include load sensors for measuring the horizontal force used by the patient to pull themselves forward. The Office Action states that it would have been obvious to combine the references to arrive at the recited system.

Applicants respectfully traverse the rejection. The Office Action indicates that it would be obvious to combine the references, however, there is no motivation to combine the references. The Westhead apparatus uses handles and load sensors for measuring force during standing. The present invention is directed to a motor function test. Therefore, measurement of forces from pressing while standing are not part of a motor function system. The two references are directed to fundamentally different devices with fundamentally different uses. Applicants assert that it would not be obvious to combine the differences without the improper use of hindsight and asserts that the present system provides non-obvious differences and advantages over the prior art or any combination thereof. Applicants asserts that the rejection over Lombardi and Westhead has been overcome and requests that the rejection be withdrawn.

Claims 2 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lombardi and Westhead and Tasch et al. Applicants assert that claim 1 is allowable for at least the reasons discussed above. Tasch fails to remedy the shortcomings of the combination of Lombardi and Westhead. Therefore, claim 1 patentably distinguishes over the combination of Lombardi, Westhead and Tasch. As claim 1 patentably distinguishes over the combination of references, Applicants assert that claims 2 and 20 also patentably distinguish over the combination of Lombardi, Westhead and Tasch for at least the same reasons as well as others. Applicants request that the rejection over Lombardi, Westhead and Tasch be withdrawn.

Claims 3 and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lombardi, Westhead and Carnahan et al. Applicants assert that claims 3 and 22 depend from claim 1, which patentably distinguishes over Lombardi and Westhead as discussed above. Moreover, Carnahan fails to remedy the shortcomings of the combination of Lombardi and Westhead. Therefore, claim 1 also patentably distinguishes over the combination of Lombardi, Westhead and Carnahan. Applicants therefore assert that claims 3 and 22 also patentably

distinguish over the combination of Lombardi, Westhead and Carnahan and request that the rejection be withdrawn.

Claims 8 and 9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lombardi in view of Westhead and Orlewski. Applicants assert that claims 8 and 9 depend from claim 1, which patentably distinguishes over the combination of Lombardi and Westhead as discussed above. Moreover, Orlewski fails to remedy the shortcomings of the combination of Lombardi and Westhead. Therefore, claim 1 patentably distinguishes over the combination of Lombardi, Westhead and Orlewski. As claims 8 and 9 depend from claim 1, claims 8 and 9 patentably distinguish over the combination for at least the same reasons as well as others. Applicants request that the rejection over the combination of Lombardi, Westhead and Orlewski be withdrawn.

Claims 4, 11 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lombardi in view of Tasch. As discussed above, claim 1 overcomes the combination of Lombardi, Westhead and Tasch. Therefore, claim 1 also distinguishes over the combination of Lombardi and Tasch. As claim 1 is believed to be allowable over the combination, Applicants assert that claims 4, 11 and 14 depending therefrom, also patentably distinguish over the combination. Therefore, Applicants assert that claims 4, 11 and 14 patentably distinguish over the prior art and request that the rejection be withdrawn.

Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lombardi in view of Tasch and further in view of Carnahan. As discussed above, claim 1 patentably distinguishes over the combination of either Lombardi and/or Carnahan. As claim 1 patentably distinguishes over the combination, Applicants assert that claim 5 also patentably distinguishes over the combination of Lombardi, Tasch and Carnahan and requests that the rejection be withdrawn.

Finally, claims 6, 12 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lombardi in view of Carnahan. As discussed above, claim 1 patentably distinguishes over the combination of Lombardi and Carnahan. Applicants therefore assert that claims 6, 12 and 15 also patentably distinguish over the combination and request that the rejection be withdrawn.

A speedy and favorable action in the form of a Notice of Allowance is hereby solicited. If the Examiner feels that a telephone interview may be helpful in this matter, please contact Applicants' representative at (612) 336-4728.

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers or any future reply, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725.


Respectfully submitted,

MERCHANT & GOULD P.C.

Dated: _____

6/13/08

By: _____



Gregory A. Sebold
Reg. No. 33,280
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